

First-fruits and Tenthys

76

V.13.3

Out of Ecclesiastical livings, according to
to their present improved values,

No Present for Cæsar:

O R

The Arithmetick of Dr. Thomas Bradley, in
his Book, called a *Present for Cæsar* of 100000*l.*
in hand, and 50000*l.* a year, examined, and
found not to amount (by inversion) to 000000.
00*l.* or 4*l.* in hand, and 00000*l.* 00*s.* 05*d.* a year.

By occasion whereof is handled the Nature, Ori-
ginal, and Measure of First-fruits, and the Nature and
Original also of Tenthys, by the Law of God, by the Ca-
nons of the Jewish Doctors, by the Popes Law, (commonly
called Canon Law) and by the Common and Statute
Laws of England; which with one consent say, that the
Doctors Present or Gift, will not make room for him to
bring him before his H I G H N E S S E.

D. B. R. V. O. G. J. E.

i. Timor. i. 7.

Desiring to be teachers (or Doctors) of the Law, understan-
ding neither what they say, nor whereof they affirm.

Tardus malum sibi cœsat. Adag.

L O N D O N, Printed by F. Lisch, for The: Kirby, near
Grays-Inn-gate in Holbourn, 1657.

July 22nd 1811

Wm. H. Davis Esq. & Son
Montgomery, N.Y.

No. 100 Main Street, New York.

Dear Sirs, I have the pleasure to inform you

that we have just received a quantity of

the best quality of American Cigars,

which we will supply you with at a very

moderate price, and will be pleased to

have you call and see us at your convenience.

We have also a large quantity of the best

American Cigars, which we will supply

you with at a moderate price, and will be

pleased to have you call and see us at your

convenience.

We have also a large quantity of the best

American Cigars, which we will supply

you with at a moderate price, and will be

pleased to have you call and see us at your

convenience.

We have also a large quantity of the best

American Cigars, which we will supply

To His Highness
OLIVER,
LORD
PROTECTOR,
OF THE
Common-Wealth of *Eng-*
land, Scotland, and Ireland,
and the Dominions there-
unto belonging.

May it please your Highness,

There was not long since of-
fered to your Highnesse by
Dr. Thomas Brady, a ma-
gnificent present of 100000*l.*
in hand, and 50000*l.* a year,
by way of First-fruits & Tenthys,
raking of them not as they are
now paid, which is by a valua-
tion and survey of Church-li-

A 2 vings

The Epistle

Prov. 18.16.

Prov. 17.8.

vings in the time of Henry 8. but according to the present improved values of them upon a new Survey to bee made ; a Present (were it legal to take it) that indeed would (as Solomon saith) make Room for a man, and bring him before great men ; and would be as a Precious Stone, or (as the Original hath it) a Stone of Grace in the eyes of him that bath it ; but sure I am, if it be not legal your Highness will not entertain it ; It was a saying of Philip of Macedon, That no Tower was so impregnable but it might bee taken, modo Asinus onus nro eam accedere posset. On the contrary, I hope I may say of you without suspicion of flattery (which yet frequently haunts greatness) That your Highness is inexorable to an unjust offer, if you know it to be so, modo Angelus (as this Gentleman is, or would be esteemed an Angel

LIMI

Dedicatory.

Angel of the Church) onus tuus
auto tuam celsitudinem accedere pos-
set. That the Doctors present
(being viewed on every side) is
not fit for your Highness's accepta-
tion, is the drift and scope of
this small Tract. A present it is
too, not of Silver and Gold, but
of Truth, as near as I have come
to the view and apprehension of
it; I present it not *ut gratus sim*,
& viam ad dignitates profernam,
but that your Highness may see,
That *Rex* had need be *Lex oculata*.
The Doctor saith, the Law is on
his side; I say, it is on mine;
our appeal is to your Highness,
to you and your Courts belongs
the decision: What moved the
Doctor to this design, is hard to
judge, if we respect his inwards;
but if what is in the furnace may
be judged by the Sparks that fly
out of it, and if words be the
messengers of the thoughts and

The Epistle

minds of men, We may (without breach of charity) say, profit and self advantage was the *primum movere*s. For he saith in his Epistle to your Highness, That his design about First-fruits and Tenthys was before your Highness Commissioners for Discoveries at Worcester house; and it is easily believed that no man lodged any thing there by way of Discovery, but to obtain a fifth part of it, which your Highness Commission did allow: and what would his fifth part of First-fruits and Tenthys amount to, according to his own estimate of them to your Highnesse? no more but 10000 l. per Annum, & 20000 l. in hand. This revenue would have soon turned the Motto of his house at Neilebed (which in his book he saith is thus: *Episcopus non procul ab Ecclesia habeat Hostiolum, valem mensam & suppelletilem.*)

Present for
Cæsar, f. 36.

Dedicatory.

lem) into this motto, *Episcopus
habent Palatium, Dapsilum & op-
param mensam & spectabilem supel-
lectilem*, and all this grandeur
must have arisen from the da-
mage of his Brethren of the Mi-
nistry. It is sad when (as my
Lord Bacon saith) *a man will set
his Neighbour's house a fire to roft his
own Egs by*, or when (as a good
man saith) *a man is so self-en-* Mr. Herl.
*ded that hee become the Hedgehog of
Conversation, and will roull and
wrap himself in his own warm down,
and turn his bristles to all the world
besides.* Self-end pursues the nar-
rowest circle, turning it self (like
the feeble Snake) into it self, as
if no man were to regard any
thing else but his own spot. I
beseech your Highness's pardon for
this length; earnestness is usually
tedious & unmannerly even before
greatest of men: I now conclude
with this prayer to the Lord on

The Epistle, &c.

your behalfe, that your Highness
(who is one of them (I mean
Princes) that walk (as it were)
upon the battlements of this lower world) That your Highnesse
(who stands (as it were) upon
an open Theater, and is viewed on
every side) may walk evenly and
with a sure footing for what ever
you do ; for your actions and
carriage are of greatest impor-
tance to the Nation ; that your
Highness (who is cloathed with
so great Authority and Honour)
may bestir your self to become a
blessing to the Age wherein you
live, and a Benefactor to succeed-
ing Generations ; that this motto
may be written on your Highness
Name to after ages, This is the Man
who honoured God, whom God honou-
red, and whom honour amended.

I am your

HIGHNESSE

Humble and affectionate Servant,

R. V.

To the Right Honorable

JOHN GLYN,

Lord chief Justice of the
Upper-Bench;

OLIVER ST JOHN;

L. Chief Justice of the Com-
mon-pleat: and the rest of
the Learned and Reverend
Judges.

MY LORDS,

The final and peremptory decision
of the controversie between Dr.
Bradley and myself, touching First-
fruits and Tenthys, (viz. whether
they ought to be paid into the
Exchequer, according to the
present improved values of Mi-
nisters livings, or as they were sur-
veyed and valued in H. 8. time)
belongs

The Epistle

belongs properly (on this side A Parliament) to your Learned and grave Tribunals, (or at least to some of you) to determine; to you therefore it is not improper for me to make this humble address; if you judge me in an error in what I assert, and the Doctor in the right, I shall acquiesce and confess my Ignorance, and the wrong I have done the Doctor in this contest with him. But if it appear the Doctor hath trudde awry, and like the famous Heroe of Mauchia mistook a Wind-mill for an enchaunted Castle; or hath dipt his pen in his humour and inclination, (for how few men are there, that do not live, as they love; and believe as they will and incline?) and not in the Law, He will I hope be so ingenuous as to retract, and for the future forbear to spread his wing beyond his nest, or meddle in aliena Republica; shameful irregularities, usually haunt and attend men wandering out
of

Dedicatory.

of the Circle and Round of their
own Callings; and it cannot be
otherwise where men will not abide in
that calling wherein they were called: ^{Cor. 7. 20.}
it had been praise worthy had the
Doctor not meddled with this business,
and entangled himself with the affairs
of this world, but dedicated himself
to the work of the Ministry, (his own
calling) for which who is sufficient?
Your Lordships well know, what
became of Ranulph Chaplein to
William Rufus, who for his fau-
rage in making Marchandise of
Church livings for that King, was
advanced to be Chancellor, and af-
ter to be Bishop of Duresme; and
when he was advanced to high Digni-
ties, made them servants to his
Sacrilegious and Symoniacal de-
signes, as my Lord Cook saith) ^{Co. 2. Inst. 5. 15.}
But in H. I. time, this Ranulph
when he was Bishop of Duresme, was
by Hen. I. committed to Prison for
bis intollerable misdeeds and injuries,
(as

The Epistle

(as my Land Cook saith) to the Church; where he lived without love, and died without pity, saving of those that thought it pity he lived so long. I wish not the Doctor such a punishment, till he have brought to passe his design, (not much unlike that of Ranulph) which yet I hope will never be. It is a coming saying, That the ordure of the Thrush is an ingredient of Birdlime, whence that *adage* *Turdus malum sibi cacat*; whether this design of the Doctor would not bode evil to himself (in case he could not have succeeded for his first part of it as a discovery) is not hard to judge. My Lords, This little Tract is conversant about a subject that is but little handled in our Law, it taking its original from other Laws, therefore it is that authorities in our Law are so sparingly cited, and Histories and other Laws are brought in to ayd in this busines. The French Proverb is, Speak not Latine

xix*me xxvii*
aut*nunc.*

On ne doit par-
ler Latine de-
vant les clercs.

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Dedicatory.

Latine before Scholars ; Your Lordships are quick-sighted, and can easily see where I fall ; but I doubt not of Candor from you, whom I never affected severe and rigorous in your sentences, but endeavouring to deal with all men *æqua lance*.
I am

MY LORDS,

Your Humble Servant.

R. V.

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TO THE
GODLY LEARNED
and Reverend Ministers
of this Nation.

Reverend Sirs,

One, that saith, he is of your Number, (and a Doctor too) hath not long since published to the view of the world a Book called, *A Present for Caesar of 100000l. in hand & 50000 l. a year*, which is to be raised out your respective benefices (as he saith) according to the present improved values of them by the way of *First-fruits and Tenthys*, and this is to be done (as he saith) by virtue of the Statutes of the 26. H. 8. c. 3. and 1. Eliz. c. 4. I have endeavoured to prove that this measure of First-fruits & Tenthys, which

Dedicatory.

which he would have paid to his Highnesse , is not only full but running over the true sence and meaning of these Statutes, taking them in *verbis & significibus* , and according the mind of the Legislators & Interpreters of them; it also is a measure I am sure, that the Law of the Pope himself (I mean not his will) called Canon Law, the Canons of the Jewish Rabbins , and the Law of God (the rule of all Laws, or should be so) will not allow of. Sorry I am that one of your calling should labour in a business that is not onely beyond his own Line and Sphere , and against Law too, but to the *common* prejudice of you all , or most of you. Those that wish you well , and would profit by your ministry , would not have your Mouthes musled , and that you , and your families after you , should bee miserably poor,

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poor, and in the next degree
to starving; upon which ensues
contempt and other sever tempta-
tions, than good men would
have you have experience of.
The Doctor saith 1. That
First-fruits are due to his High-
ness by Law, according to the
present values of your benefices,
and not according to the valua-
tion in H. 8. time: I deny it, up-
on a ground (I hope) of as true
respect to his Highness service as
hee, which is to do nothing a-
gainst Law. 2. He saith, you
are willing to pay it as he pre-
scribes to have it raised. I must
say, I doubt he doeth speak this
fratribus inconsulis, at least most
of the judicious amongst you;
but if you be willing *volenti non sit*
injuria, you may bring a burden
upon your selves, and tye it with
your tongue so fast that you can-
not all ontye it with your teeth,

nor

Dedicatory.

nor those that shall succeed you, unless God mercifully interpose.
3. (He saith) By your payment of First-fruits and Tents, as he would have it your standing will become firm, I say, that there is no profession or calling of men in these three Nations, that hath a higher and brisker countenance, and more *open-faced* favour from the chief Magistrate, than yours, as farre as you are Godly and Learned; and as long as there remains a good Magistrate in these Nations, so long will your bottom and standing (I mean that of your outward maintenance, the other having a surer Basis) be as firm and stable as his shall be; (the life and soul of whose *interest* lying in the *encouragement* of good Ministers and good men) And now I beseech you, excuse the weak head & hand of him, that weilds

A 5 and

The Epistle.

& manages this *concern* of yours; had I known of any abler person (as there are not a few that can do it) that would undertake to give *chek* to the *headiness* of this design, (though it hath been 28. years a brewing by others and by this Doctor) and did not the Doctors book *sencibly bear* with the *Pulse* of a *dangerous Project*, I should have forborn pains to my self, and trouble to you: I had once some thoughts to have *humbly proposed* some thing to his Highness and the Parliament, for the *utter abolition* of First-fruits and Tenthys, as things Typical under the Levitical Law, but knowing that there are very many able persons among you, to whom this task is more suitable, and who are fitter and more sufficient than I am for such a work, it being out of the round of my calling, and much out

Dedicatory.

out of the reach of my abilities
to do it well. I forbear it, not dis-
pairing, but some among you
will let these Nations know,
that First-fruits and Tenth-s are
fit to bee quite abolished, and
to *emerge* in the Ministers main-
tenance, which Queen Mary in the
first & second year of her raign
(none of the best of Queens)
once did abolish, and gave unto
the Ministers, as you will find
hereafter.

Reverend Sirs, I now take my
leave of you, wishing and hoping
never to see a starving or peeled
Ministry in these Nations, for
besides the *disgrace* of it to a
Christian Nation so highly bles-
sed with *Gospel* light and knowl-
edge, it *inclines* to *dejectedness*
and *servility*, and erects, (almost
in a noble soul otherwise) a *sor-
did* and *men-pleasing disposition* in
Ministers, which, how perniti-

The Epistle

on it is to the successe of the Go-
spel, is not the First-born of ex-
perience, nor difficult to deci-
pher.

I am

GENTLEMEN,

Your Real Well-wisher
and servant in the best
of bonds,

R. V.

TO

TO THE
READER,

I Must say something to thee of what judgment soever thou be, and which way soever thy Bias lies; know that as a man subject to Common mistakes, I value not thy censure, if thou be a man thorough-paced in passing of it; but as a man whose faylings may exceed ordinary frailties, I implore thy candid correction (mente correctissima) considering I have travelled something out of the common and beaten path, and therefore more liable to stumble; were I my self to passe my judgment on these my own productions, upon frequent and serious after-thoughts (it may be) some things (and yet who loves not the progeny of his own brain) could not pass my own approbation, Seniores cogitationes, saniores; therefore I beg such

To the Reader.

such a pardon as thou canst give me,
I have no Eloquence to ask it, I can
not (like the Orator) first put on
those passions my self that I would
stir up in others, and (as one saith)
by a subtile and lively contagion
impress on thee my own persuasions
and affections. Truth needs not the
Musick of the Tongue; it is elo-
quent enough of it self, it needs no
Flourishes, nor Gayes of Language,
Magna est & prevalebit, whatsoever
Truths thou findest here, if thou hast
a High-born soul, thou wilt own it;
and moderately censure my Errata's;
if thou be no more then a piece of
walking earth, or a high boy and
hot soul, that likes not things because
contrary to thy humours, not thy reason,
I have nothing to say to thee, but to
wishes thee of a sounder mind. I have
but a word or two more, and then I
shall desist. The reason why I have
not translated the Latine throughout
these few sheets into English, is first
because

To the Reader.

because I designed Brevitie, Ur-
ceum, nor Amphoram institui.
Secondly, because the subject matter
concerns only a Learned Profession
of men, to whom, to do it, were need-
leſſe. I have now done, farewell.

Thine

R. V.

THE

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First fruits and Tenth out of Ecclesiastical Livings, according to the present im- proved values, No Pre- sent for Cæsar, &c.

Before I take upon me to en-
quire into the subject I am
now about, I shall preface
thus much; That in answering
the Doctors book, I intend not to
follow him in the same Method
he hath writ it, most of his rea-
sons therein being not so mas-
culine, and of such a breadth and
bulk, as they deserve, every one
of them, a single and particular
encounter; and therefore I shall
bend my strength, and all that I
have to say, against his main po-
B sition,

Sett. 1.

*The Intro-
duction.*

sition, (the Leader of his other circumforaneous reasons) viz,
That First fruits and Tents by Law ought to be paid according to the true values of them, and not as they stand partially rated in the late Kings books, by an antient Enquiry made above 100. years since, which gives them not in to the fifth, nor to the sixth, nor scarce to the eighth part of the true value of them throughout the Land ; which if I defeat, the flight and discomfiture of his other auxiliarie reasons will necessarily follow, without as much as an onset.

Sect. 2. And because all regular progression is from a definition or description of what is to bee handled, for thereby things are exhibited to the understandings of men by their internal forms and essences, or by their proper Causes, effects and accidents, I shall

shall give the Reader such definitions, or descriptions of the nature of First fruits and Tents, as may be Collected, 1. out of Scripture, 2. out of the Jewish Doctors writings, 3. out of the Popes Law, commonly called, The Canon Law, and 4. out of the Common and Statute Laws of *England*; And because it was extorted before the time of King Hen. 8. by vertue of the Canon Law, I shall speak to the original of that Law, and how it came into *England* and bore sway amongst us above two hundred years with no little domination: And then I shall endeavour to shew after what measure they were antiently paid, and how they ought now to be paid; and lastly, about what time they were first exacted by the Pope in *England*.

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But

Sect. 3. But that I may prevent all occasions of exception or reply from the Doctor, (if it may be) against the definitions or descriptions that I shall exhibite as that my definitions doe not consist of the essential attributes, (*viz.*) *ex proximo genere et specifica differentia*, which are esteemed necessary in all right and regular definitions; or that my descriptions are not according to the strict rules of the Logick Schools, *qua definitam explicant genere & accidentibus vel causis vel effectibus propriis*, I shall tell him thus much, that if I should pretend to any measure of exactness therein, yet I shall not here make any apology for not following a stricter School-method than I have; for if my definitions or descriptions in this matter shall amount to as much as *descriptio minus principali*

palis quæ est definiti ex mere contin-
 gentibus terminis vel etiam externis
 explicatio, it shall serve my turn.
 And thus farr I conceived it meer
 to pass out of my way (not that
 I fear my Antagonist however)
 to let him know, that if I be un-
 derstood in what I offer herein
 to Publique view, I am not over-
 curious whether it be after the
 way of incompt and home-spun
 natural Logick, or that of the se-
 verer Rules of Art and method.
 I shall therefore begin first with
 the explanation of such words as
 doe express First fruits in Scrip-
 ture, and so descend à definitione
 vocis, ad definitionem rei, and so
 procceed in the order before-
 mentioned with it first, and then
 take up the same method in
 handling of Tenthys.

Sect. 4. First fruits in Scripture are
 expressed by three several words,
 תְּרוּם (א טָרַם, excelsum, aliū, celsitudo) ob-
 latio, elevatio, 1. Theruma, or Tbruma, signifies
 qua spōne da- oblatio, elevatio, which both anti-
 batur Deo, Sacerdotibus et modern expositors of the
 Levitis: Bux-word do agree to be an oblation
 iorſ. Lex. R. of First fruits; and ſo (to omit
 Solomon. R. Moses Maymon others) it is rendred of that place
 in Terumoth = in 45 Ezekiel 13. of which I shall
 1, 2. Sect. 1. hereafter have occation to speak
 Talmud: lib. further. 2ly, Biccurim (from
 Terumah, בְּנֵי בְּנֵי
 בְּנִירֹם אֶבֶן
 (primoſenitus) Bacar, Primogenitus,) Primitia,
 primitiae primi Primitivi fructus, and ſo it is to be
 tivi fructus: taken in these ſeveral places of
 רְאשִׁית Scripture, Exod. 23. 16. Levit.
 (א רְאֵשׁ 2. 12, &c 14. 3ly, Reschith (from
 caput) prima- rium, Summa, Rosch, caput,) Principium, initium,
 rium, Summa, Rosch, caput,) Principium, initium,
 preſtantissimum, preſcipuum, and ſo it is rendred in Ex. 23. 19.
 &c. Primarium, in Deut. 26. 2. and
 Preſtantissimum, in Numbers 18.
 12.

The

The Hebrews and others say *Sect. 5.*
 there were several sorts of First
 fruits : some were brought by
 the people, who were the ow-
 ners, unto the Lord, (*i. e.*) into *Sol: Iarchi.*
 the Sanctuary, according to the
 26 *Deut.* 1, 2, 3, 4. &c. Some *Godwins An-*
 the people *gave* to the Lord, but *tiquities of* the Jews, fol.
 they were not obliged to bring ^{218.}
 them out of the place where they
 were, but the Priests were to
 fetch them ; some were offered
 in the beginning of Harvest,
 some in the end, some in fruits,
 some in wave-loaves, and some
 were called shake-offerings, and
 some in Cakes of Dough. These
 distinctions whether they be all
 true, I doubt ; yet making no-
 thing to my purpose, I think
 them not necessary to be enqui-
 red into.

The definition or description *Sect. 6.*
 B 4 that

The nature of
First fruits.

that may be given of First fruits,
(not to speak of the first-born of
Man and beast , which were a
a First fruit to the Lord also , ac-
cording to the 22 Exod. 20. and
13 Exod. 2.) out of the Scrip-
tures (with which the soundest of
the Hebrew Doctors agree , and
therefore we shall describe it but
once for both these) is this .

Sect. 7. First fruits were an offering to
the Lord by the people of Israel , out of
the first , ripest , and best incombs , and
fruits of their lands and labours .

Sect. 8. That it was an offering to the
Lord by the people of Israel , is
clear from Numb. 18. 12. All the
best of the oyl , and all the best of the
wine and of the wheat , the first fruits
of them which they (i. e. the people
of Israel , as the beginning of the
Chapter shews) shall offer unto the
Lord , have I given thee : They
were

were to offer it to the Lord, and the Lord assigned it to the Levites, and to the Priests for their portion.

That it was an offering of the first and ripest fruits of their lands is proved, Exod. 22. 29. *Thou shalt not delay to offer the first of thy ripest fruits, and of thy Liquors, &c.* and so 23. Ezod. 19. & 44 Eze. 30. And that it was to be an offering of the best and choicest, see the aforesaid place of Numb. 18. 12. *All the best of thy oyl, &c.* and that it was to be out of their Labours, as well as their Lands, is clear in Exod. 23. 16. *And the feast of harvest the first fruits of thy labours which thou hast sown in the field, &c.*

The day of offering the First fruits was the feast of Harvest (which was seven weeks after the Passover) Exod. 13. 26. This

This day in *Ab*s 2. 1. is called *Pentecost*. The solemnity of this feast of Harvest was exceeding great, as may be seen in *Talmud Bab.* and in *Maymon*.

Maymon in Biccurim, c. 3. f. 1. *R. Moses Maymon saith, First fruits were not to be offered but of the fruit of the land of Canaan, in Canaan, and not out of it.*

Sect. II. The Canonists, or Doctors of the Popes Law, define the First Canonicum, tit. 39. f. 159. & Venatorii ana-lysis Juris Pontificii, lib. 3 sit. 30. f. 626. *fructuum obventiones domino offerenda, antequam usibus nostris secunde deputentur. (i.e.)* First fruits are the first incombs of the fruits of our revenues, or profits of our estates, to be offered to the Lord before we assign any to our own private uses; which (say they) though they were to be offered to the Lord, yet *Sacerdoti proprio seu parocho aut clericis qui pro offerentibus preces*

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preces fundunt, debentur, and by
this Law everyone was to pay
First fruits, and not the Clergie
only, as now it is : *Quilibet ex fructibus pereceptis pro loci consuetudi- ne (ita tamen ut mediocritas quædam servetur) rectori Ecclesiae primitias det.*

*Analysis Ve-
nat. ibidem.*

The English Lawyers say, *Sect. 12.*
That the *Primitæ* or *Annats* are *coke 4 Instir.*
the first fruits after avoidance of eve- *c. 14. p. 120.*
ry spiritual Living for one year to be
paid by the Clergy to the King (or
*chief Magistrate,) except *Vica-*
reges not exceeding ten pounds; and
Parsonages not exceeding ten marks
*per Annum.**

This description is after, and *Sect. 13.*
with relation, to the Statutes
of the *26 H. 8. cap. 3.* and *I 26 H. 8. c. 3.*
Elizab. cap. 4. which first made
the stream of this revenue of
First fruits and Tenthys, to run
from

from the Papal, to the English Exchequer, it having before for some hundreds of years been extorted from the English Clergy by vertue of the Canon Law, a Law that came in at the window like a Thief, but never was freely admitted at the door; and when it came into the house, it played the Thief indeed, it first bound us, head, hands and heels together, King, Priest and People, and then robbed us of this and other incredible sums of money, for (as I said before) above 200 years together.

Sect. 14. It will not (I hope) be deemed amiss if in this place I take occasion to make a little digression, to let the reader (as far as I am able) see what this *Law* is in its original, by whom it was made, and for what climate it was first calculated, and then how this *Foreign Law* fitted

(fitted at first for a *particular* Princes Territories, and to be executed within the *confines* theteof,) should, without any *Publique leave* or *State-admission*, worm it self into several Kingdoms and States, and become so much a *Law* in force, that the *municipal* Laws of those Nations, where it thrust it self, *bowed the knee*, and did *obey-sance* to it.

The Canon Law (if we believe the *Canonists* themselves) hath the *Law of God* for its original and source ; but there needs so little confutation of this assertion, that the very *trash* whereof this Law in the greatest part off. 4. it consists, shewes it to be more the *spurious* Brat of the Scarlet Whore, than the Issue of so noble and masculine a Parent.

Sect. 15.

The original
of the Canon
Law, &c.
Venatorii An-
lysis Juris
Pontif. L. r.

The *Causa efficiens magis propin-* Sect. 16.
qua

qua of this Law (as they say) saith,
 was the *Nicene, Constantinopolitan,*
Ephesine, and Chalcedonian Coun-
 cils, and those who reduced their
 Laws into a method and orderly
 series, were *Ivo* Bishop of *Carna-*
Pope Gregory the ninth (or rather
Barcinius his Chaplain by his
 Command) whose wickedness
 was so barefaced, as to cause his
Decretals to be reckoned *inter Ca-*
nonicas Scripturas) Pope *Boniface*
 the eighth, *Clement* the fifth,
Gratian the Monk, and Pope *Eu-*
genius the third; which last men-
 tioned Pope commended the *Decre-*
ta to be read in publique Schools,
 & allowed them to be urged for
 Law. The *Extravagants* were
 Compiled by Pope *John* the 22.
 and other parts by other Popes
 and Cardinals.

Sect. 17. Sir Thomas Ridley in his View
 of the Civil and Canon Lawes
 faith,

saith, The *Decreta* or *decrees were* Ridley's View
of the Civil &
Canon Laws, *Constitutions made by the Pope and Cardinals,* and were first gathe- p. 73, 74, 75.
red by *Ivo* Bishop of *Carnat* in
Pope *Urban* the seconds time, a-
bout the year of Christ 1114.
and polished and perfected in
the year 1149. by *Gratian* a Be-
neditine Monk, and Confessor
to the aforesaid *Eugenius* the
third. *Trithem:* ^{lib. 2.} *faith, it was done* de virus illu-
stribus. *Isaacson*, ^{Isaacson chro.} f. 332,
in the year 1127. *that it was in 1152.* others, *that*
it was in 1151. These varia-
ces being not reconciled nor re-
ctified by the Lawyers of the
Pope themselves, it is hard for
me to doe it, and therefore will
leave them to reconcile or rectify
them among themselves.

The *Decreta* (consisting of 3. parts) are the antientest : as old as *Constantine* the first *Christian* Emperors time, (as some of the Canonists

Sect. 18.

Canonists say.) The first part sheweth the *original* of the Canon Law, and describeth the rights, dignities and degrees of Ecclesiastical persons, and the manner of their Elections, Ordinations, &c. The second setteth forth the Causes, Questions and Answers of this Law. The last treateth of Consecrations of Churches; and bread and wine in the Sacrament, of Feast days, of Baptism, and Imposition of Hands; but let these decrees be as antient as Constantines time, (who began to reign about the year of Christ 306, and died about the year 336.) yet they were not generally known, but were kept *inter privata scrip-
toria Paparum*, nor were they methodized, read in Publicke Schools, and allowed to be urged for Lawes, till the year of Christ 1114. but as some say,

not

not till the year 1651. or 1652.

See. 19.

The *Decretalia*, or Decretals, (consisting also of three parts or volumes) are called *Canonical Epistles*, written by the Pope himself, or by the Pope and Cardinals. The first Volume being gathered by the aforesaid *Barcinus*, Chaplein to *Gregory* the 9th, and published about the year of Christ 1231. and used for Law in Ecclesiastical Courts, but first in the Popes own Territories, as shall anon be further shewed. But *Isaacson* saith, these Decretals (which must be understood of this part onely, for the other parts were not published along time after) were published *Anno Christi* 1236. and *Moor* in his Tables saith it was in the year 1232. but the variance is not considerable. The second part of the Decretals was methodized

Ridley's View,
f. 75.

Isaacson Chr.,

f. 334.

Moor's Chron.
Tables, f. 178.

C by

Ridley's View,
ibidem.

by Pope *Boniface* the eighth, and published about the year 1298. And the 3d. was made by Pope *Clement* the fifth, whence this last Volume of Laws are called *Clementines*: these were published about the year 1308. in the *Isaacson Chro.* Council of *Vienna*. But *Isaacson t. 344.* saith, it was in the year 1313.

Sect. 20. These being the first born Laws of the Popes brains, and of his Cardinals and Monks, not long after came the *Extravagants*, which were the issue of Pope *John 22.* (who began his Papedom in the year 1316. lived the longest of any Pope, and died in the year 1335.) then were brought forth another litter of Laws, called *Sextines*, Constitutions, Provincials, Summaries, Rescripts, Repertories, Palls, Quodlibets, Rituals, Reductories, Glosses, Breviaries, and infinite the

*Prideaux In-
troduction, f.
154.*
*Beals Pageant
t. 134.*

other pitiful Riff-raffs, (pardon the words) the genuine product of the Popes, their Cardinals and Priests.

Sect. 21.

These *Decreta* and *Decretalia* were first calculated for the Government of the Clergy within the Popes own Territories and Dominions, and were not offered at first to be imposed by the Pope upon the Christian world, he well knowing, that *ubi non est credendi authoritas, ibi non est parcerendi necessitas, et extra terri oris jus dicenti, tuto et impune non paretur.*

Sect. 22.

The *Decreta* being first published, the Pope after some experience had of them within his own Dominions, Commends them to the Clergie in other Nations; in some States the Clergie entertained them, in some they were not accepted. The Pope then imposes

C 2 them

them upon the Clergie every where; & nunc pennas nido majoris distendit. The Western Churches received them, the Eastern rejected them, *Incepit fabula pergit His tristio.* Then ne advances, from commanding his Laws to other Nations and commanding the Clergy to obey them, to impose them downright upon the Laity also, by putting dayes of abstinence, holy dayes, &c. upon them.

Sett. 23. These having taken some success in some States, his *Decreta lia* are thrust upon the world, now Kings, Clergie and Laitie must all obey, the mask and disguise of a modest commendation is thrown off, the Popes heart is now turned the inside outward. Now he gives *Laws* to bind the People in their *civil con cernments*, *Laicks must have no Pa tronage*

tronage or donation of Ecclesiastical preferments, himself must have all, none must marry but within degrees of his prescribing; Children born before espousals must be Legitimate and capable of inheriting; The Clergy must be exempt from the Civil and Secular power, with multitudes of other Laws: so that (as one saith) *Qui In Epist. lib. prius humili socco incidebat, nunc al- vocat. Reform. to Cothurno ingreditur, et ex Ponti- Legum Eccles. ex autho. pri- fice Rex factus est ac leges prescribit u- m:m H. 8. de- niversis, et sic leges legibus, decreta inde E. 6.*
decretis, ac iis insuper decretalia, aliis alia, ac quidem alia accumulat, nec ullam pene statuit cumulandi fi- nem, donec tandem Clem:ntinis, Sextiinis Intra & Extra-vaganti- bus, Constitutionibus, Provincialibus, Synodalibus, Palleis, Glossulis, Sen- tentiis, Capitulis, Summariis, Re- scriptis, Breviculis Casibus longis & brevibus, ac infinitis Rhapsodius adeo orbem confarciavit, ut Atlas Mons quo sustineri Cœlum dicitur, huic

(si imponeretur) oneri, vix ferendo
sufficeret.

Sect. 24.

Yet notwithstanding all these Laws, and that the Pope had gotten the generality of the Clergie in several States for him, and some of the Laity also, yet divers of his Laws in most Nations were rejected. In his own Country, which some call D. a. rep. f. 70. *Patria obedientia*, they were generally obserued. In other States which they call *Patria consuetudinaria*, very many of them were opposed. That *France* withstood divers of his Lawes, appears by the *Pragmatica sanctorum*, made in Parliament there in the time of *Lewis the Ninth*, which was about the year 1228. That *England* opposed the Popes Law, is frequent in History.

Sect. 25.

This appears by the Constitutions

tutions of *Claringdon* made in This was a-
Henry the Seconds time , against bout the year
the incroachments of Pope *Alex-*
nels Hist. f. 70,
ander the third, and Archbishop *Becket* his disciple here in *Eng-*
land, who with his predecessors had got the Clergy
had got the Clergy exempted from Secular power , upon
from Secular power , and the Donation of all Church livings
to be in the Pope , and had got appeals to *Rome*, and might bring
Bulls to curse the Realm thence, which were all opposed by the
aforesaid Constitutions , among which there is one notable Article
to this effect , viz. That none of the Popes decrees (these were the
Decreta , which were published but a little before) should be executed in England upon pain of imprisonment and confiscation of goods.

In the Parliament at *Merton*, *Sext. 26.*
20 H. 3. The Canon for legitimation of Bastards before es-
co. 2. Inst. f. 96

C 4 pousals

prosals was withheld.

Sect. 27.

*35 E. I. Stat.
de aportatis
Religiosorum.*

In Edward the firsts time, the Statute made in the 35 E. I. at Carlile in the year 1307. was among other things against the Popes oppression of Churches and Monasteries.

Sect. 28.

25 E. 3. c. 1.

The Statute of 25 E. 3. c. 1. was made against the Popes invading the right of Patronage and presentation to benefices, and for other incroachments.

Sect. 29.

*Wyleway, fol.
181.*

The Canon for the exemption of Clerks from the Secular power was never totally embraced in any part of Christendom, as appears by the case of Doctor *Standish*, and the Abbot of *Winchcomb* learnedly debated and argued in *Blackfryers London*, by Common Lawyers, Civilians, Canohists, and Divines, in the 7 year of H. 8.

The

The Canon for *First fruits* was
 opposed in the aforesaid Parlia-
 ment at *Carlile*, and by the afore-
 said Stat. of 25 E. 3. which (a-
 mong other things) was made a-
 gainst the Popes Collectors of
First fruits who carried the Tre-
 sure of *England* beyond the Seas;
 In the 47 E. 3. A complaint was
 made in Parliament against the
 Popes Collectors of *First fruits*:
 The like complaint in 51 E. 3. in
 Parliament, and that 20000 l.
 was yearly carried out of the
 Kingdom by this means onely,
 besides other exactions. In the
 Parliament of 4 R. 2. the like
 complaint was made against his
 Officers exacting of *First fruits*,
 and a prohibition of levying of it
 any more, calling it also a No-
 velty. In 6 R. 2. was the same com-
 plaint in Parliament. The like in
 the Parliaments of 10 R. 2. & 10 R. 2.
 6 R. 2.

9 H.

9 H. 4. c. 8.

9 H. 4. and an Act of Parliament thereupon made against the Popes Tyranny and Incroachment in this respect. And yet for all this, through the Oscitancy or Cowardise of most of the Kings of *England*, till H. 8. time, the Canon Law did out-sound and out-speak Acts of Parliament, and all other Laws of the Nation, the Clergy spiriting the people with the same spirit they received from *Rome*, so that little was the effect of our Law, the Clergie were the Popes Vassals and Votaries, the people (for the Bulk and Generality of them) a herd of *Afinegoes*, led or driven as they pleased, they governed the *Church* by a distinct Law from that of the *State*, and ingrossed also to themselves the highest and chiefest Offices in the Nation, whereby in effect they ruled both *Church* and *State*, well-ded

ded both Laws, and made the one mute when they pleased , and th' other to speak when & what they pleased, these men had the hearts and consciences of the Vulgar at their beck, either for love or for fear , or for some other by-respect ; and if there were any *high-born* souls amongst the People that minded their Countries freedom (as doubtless there were many) yet they could but struggle for many scores of years together, and this they did until at last those *generous* sparks of publike *affection* to their Country broke out into such extraordinary *flame* and *fervor*, that with a high hand it extermimated the Popes power, and most of his Canon Lawes , (which by length of time and usage had rivetted themselves into the very heart and soul of the Nation) out of the English *confines* , even that Power

Power and that Law that for a long time was to the Law of the *num*, Land like *oyl* above the *water*, in but *E* could not incorporate with ours, antient and it would not be under it, but Kings in times of *Publique* disturbances, and to or some such like *State* - Earth- some came the go intellatable u of Vsu the ten someti all the stincliic ficial Nati Learn as to Paris land not a paris c mens

Sect. 31.

It is almost beyond conjecture what streams of *English* Treasure ran from hence to the Court of *Rome*, by means of the Popes *Bankers*, and other Officers here in *London*; some say there was yearly carried to *Rome* from *Eng-* *land* 70000*l.* which at this day is estimated at 200000*l.* per *An-* *num*. This made *H. 3.* to rage, when he heard that the Pope had yearly out of *England*, more than his yearly revenue came to.

Sect. 32.

This revenue was raised by various wayes, as by *Peter-pence*, which

for which some call *Vestigal Roma-*
rum, but indeed was originally,
Eleemosina Romana, or Alms
ours, antiently given freely by the
Kings of England to the Popes,
ces, and so acknowledged till (and for
rth some time after) the Popes be-
came Princes) And by exacting
the goods of Clerks and others dying
intestate; All goods given to chari-
table uses, First fruits, tenths, goods,
of Usurers; and sometimes by forcing
the tenths, sometimes the Fifteenth,
sometimes the one half of the goods of
all the Clergy and Laity without di-
stinction, by donation of all Ecclesia-
stical livings to Foreigners as well as
Natives, yea to men of neither
Learning, nor morality, as well
as to Learned men, as Matthew
Paris complains, saying, Eng-
land to Rome was an Agar, and
not a Sarah. In summ, two third
parts of the Land were in Clergy
mens hands, as well Strangers
as

as Englishmen, & the greatest part
of the profit thereof was carried
to Rome, as may be seen at large in
Mat. Paris, in the life of *H. 3.* in
somuch as that he calls *Rome*, *Bara-
trum Proventum*, & *Barastrum
Avaricie*, and could it be other-
wise in that Kings time, when
the King himself was such an
Animal as to pay the Pope 5000.
marks for fear of an Excommu-
nication, and to let the Popes *Li-
gat* sit at a Royal feast in his own *Chair*
of State, and he on his right hand,
and the Archbishop of *York* on
his left hand. In this Kings
time and his Fathers King *John*,
the Pope was *vere Demon meridi-
anus*, a Noon-day Devil indeed,
and did verifie the saying of a
Pope mentioned by *Matthew Pa-
ris*, *Vere Hortus noster deliciarum
est Anglia, vere Puteus inexhaustus
est, & ubi multa abundant, de mul-
ta possunt extorqueri.* Thus we

*Sed non sine
multorum ob-
ligantibus o-
culis,* saith
Mat. Paris.

Mat. Paris,
f. 683.

see some footsteps of the Papal Law, and Power, and some of the Pranks it plaid here in England in the reign of several Kings more or less, until it was discarded in the time of Henry the Eighth.

Having thus farr preceeded to shew the nature of First fruits, Sect. 33.

and by way of digression, the original of the Canon Law, I shall now come to speak of the measure or proportion that was anciently and is now paid. The proportion that was offered to the Lord, is not set forth in any part of Scriptures that I find, except some touch of it in the before mentioned place of Ezek.

45. 13. This is the oblation (or heave offering, or Therumah) that ye shall offer, the sixth part of an epha of an homer of Wheat, and ye shall give a sixth part of an epha of an ho-

The measure
of First fruits.

That the Reader may not be prejudiced, let him take notice,

There is in Scripture an Homer & an Omer, both different measures, the first is ten Ephah's, the last the tenth part of an Ephah.

mer of Barley. An Ephah or Bath in Scripture were equal measure, the one a wet, the other a dry measure, each of them a tenth part of an Homer, and an Homer was ten Ephah's, and an Ephah was neer our Common English Bushell. By this account the sixth part of an Ephah here set down, was the sixtieth part of an Homer : so that the measure of the Heave offeting, or First fruits to be offered to the Lord, was the sixtieth part, if this Scripture be rightly weighed and Consulted.

Sect. 34.

Buxtorf. Lex.

Buxtorfius out of Rabbi Solomon, hath this expression of the Tberumah, (viz.) That it had not in Lege nec mensura nec estimatio, diiores de quadraginta, mediocres de quinquaginta, tenuiores de Sexaginta una dabant, de Centum Communiter duo ; whence Buxtorf observes

observes this Criticisme upon
the word *Therumah* (*quasi*) תְּרֻמָּה
תְּרַמָּה Tere Mimmah, alias Mim-
maah (i.e.) duo de centum.

Sect. 35.

The Hebrew Canons say, that
the Jews were to bring no First-
fruits; but of these seven things,
(viz.) *Wheat, Barley, Grapes, Figs,*
Pomegranates, Olives, and Dates,
and if other than these were
brought, they were not sanctified;
with these chiefly did the land
of *Canaan* abound, and for these
it is commended in Deut. 8. 8 *A*
land of Wheat and Barley, and Vines,
and Figs-trees, and Pomegranates,
and a land of Oyl Olive and Honey,

See. R. Moses Maymon, one of the
best Jewish Doctors (as Buxtor.
fatu ad more
fatu in his Preface to Maymons nevochim Mai-
mon more nevochim affirms, giving mondis.
R. Moses May-
mon in Theru-
moh c. 12. sect.
17. & in Buc-
cur m. 2 sect.
2. 4. &c.

D

minime

minime additus) saith, That by the Law no measure of First-fruits is set, but by the Doctors the measure was to be the sixtieth part at the least, which agrees with that place of *Ezek. 45. 13.* before touched upon, and between the sixtieth and the fortieth part they might bring what they pleased, and not above nor under; the fortieth part the Jewish writers call a *fair eye* (i.e.) as Interpreters say, a bountiful offering; the fiftieth part (they call) a *mean eye* (i.e.) an indifferent offering; the sixtieth part (they call) an *evil eye* (i.e.) a niggardly offering; but a learned Gentleman of this last age saith, that as to the aforesaid fruits of the land of Canaan, the first of the *forwardest* of them was to be offered to the Lord in what quantity the owner pleased, and that the *therumah* was to be paid according

Selden of
Tythes c. 2.

ing to the Hebrew Canons (i.e.)
the least offering must be a sixtieth , and the greatest not above
a fortieth part , and between
both what the people pleased.
This distinction , be it true or
false, hinders not my present design,
but rather advances it, and therefore
I shall forbear any nice inquiry into it.

The Canonists say, that the utmost proportion of First-fruits to be paid by their Law is a fortieth part , the least a sixtieth part , and between both what the people pleased , or what the custom of the place required, which fully agrees with what is before urged. Take the words of a learned writer of the Canon Law, as it is expressed by himself under the title *de Primitiis*, which are these, earū (i.e.) Primitiarum) ^{corvini Jus.}
nomine ad summum datur pars qua- ^{Pontif. Tit. 39.}
fo. 159.

Sect. 36.

D 2 drages-

dragessima, ad minimum pars sexagesima, inter has duas portiones plus vel minus datur quantum requirit consuetudo, vel quantum libet ei, qui solvit.

Sect. 37. Though this be the Law ; yet it is manifest that the Popes avarice never bounded it self by it , but exacted at their pleasure more than the Law allowed. *Platina* in the life of *Boniface* the 9. faith thus, *Annatarum usum primum imposuit Bonifacius nonus, bac conditione ut beneficium consequeretur, dimidium anni proventus fisco Apostolico persolveret,* here is half a yeers profit to be paid for fruits by this Pope, and if he that began the exacting of it first (as the said *Platina* and some others would have it , which shall by and by be examined) set it so high, above his own Law , it is not hard to believe that his successors

Platina in vi-
-*tis Pontif. f.*
259. edit. in
an. 1616.

cessors did increase it. When the Canonists affirm that *Papa in omnibus pure positivis & in quibusdam ad jus divinum pertinentibus dispensare potest, quia dicitur omnia iura habere in sermone pectoris quantum ad interpretationem & dispensationem.*

In the 6. year of Hen. 4. the *Sect. 38.*
 Pope having advanced the rate
 of First-fruits above what was
 accustomed to be paid of old,
 there was a grievous complaint
 made in Parliament held at Co-
 ventrie of the horrible mischiefs and
 damnable custome which was intro-
 duct of new in the Court of Rome,
 (these are the very words of the
 Statute) That no Parson Abbot or
 other shoud have provision of any
 Arch-Bishoprick, &c. which shall be
 void, till he hath compounded with the
 Popes Chamber to pay great and ex-
 cessive sums, as well for the First-fruit

6. H. 4. c. 1.

of the said Arch-Bishop, &c. as for
lesser services in the said Court, and
the same or the greater part whereof
paid before hand, which said sums
pass the treble or double at the
least of that, which of old time was
accustomed to be paid to the said
Chamber, or otherwise by occasion of
such provision, whereby a great part of
the Treasure of the Realm is carried
to the said Court, &c. It is ordained,
&c. that they and every of them that
shall pay to the said Chamber, or other-
wise for such First-fruise and services
greater sums of mony than hath been
accustomed of old time past, they and
every of them shall incurre the pain
of forfeiture of as much as they may
forfeit to your Souveraign Lord the
King. By this Statute it appears
the measure exacted was above
the Law and ancient custome;
but in what certain measure it
was exacted at this time, I find
not, it was what the Pope would
and

and could get, he made rules for himself, but not to be bound by them longer then they served his own ends ; yet I think it cannot be made manifest that the whole years value was paid at any time to the Pope: however what the Popes did is not the rule, but what they might doe by their own Law , which in this case is suitable to the Levitical Law and the Canons of the Jewish Doctors, and we adhere to the measure therein set down, and doubt not but dispensations and *non-obstantes* to it in this respect will to an easie belief bee deemed voyd, as *Mathew Paris* in another ^{*Matb. Paris*} _{fol. 77.} case doeth judge them, calling *non-obstantes Nuncii infames.*

Having thus far proceeded by *Sect. 39.* these several Laws , I shall now meet the Doctor at his own weapon , and joyn issue with him

D 4 and

The measure
of First-fruits
by the Law of
England.

and deny that by the Statute
Laws of England, (taking them
in *verbis & visceribus*) and by the
Common Law also, First-fruits
ought to be paid into his Highnesse
Exchequer, according to the present
improved values of Ecclesiastical li-
vings and benefices.

Sect. 40. In the 25. yeer of H. 8. First-
fruits and all other sums of mo-
ney out of *England* were prohi-
bited to be paid to the Bishop of
Rome under the forfeiture of all
their Goods and Lands that did
it; this was the first Statute that
effectually stopt the current of all
English Treasure from running to
the Papal Fiscal; and in the next
year after (i.e.) 26. H. 8. the
profit of First-fruits and Tenthys
were turned into the Kings of
Englands Treasuries, whither it
hath run ever since, except for a
small time in Queen *Maries* days.

It

It is more than conjectured, *sett.* 41.
 that by the Statute of 26. H. 8. ^{26.H.8.c.3.}
 the rates of First-fruits & Tents
 were advanted beyond any pre-
 cedent or example of former
 times when the Pope had it ; for
 though they made their wills
 their rule , yet it was usually
 where and when (they thought)
 they could compel as well as
 command, and where and when
 they could not compel, according
 to their wills , they willed and
 commanded generally (obser-
 ving the complexion of the seve-
 ral ages wherein they lived)
 what they might probably get
 without losing ground, and ren-
 dering their commands altogeth-
 her uneffectual; but by this Sta-
 tute a survey is to be made of all
 Ecclesiastical livings , according
 to their true values, which was to
 be inquired into by all wayes
 and

and means , and the First-fruits, all the Revenues & Profits for one year only to be paid by the Clergy before the promotion of every Ecclesiastical promotion whatsoever (excepting benefices not exceeding eight Marks per Annum, which were to pay no First-fruits unless the Incumbent had lived three years after induction) and some other exceptions particularly mentioned in the said Statute) to be paid or compounded for to the Kings use upon every vacancy , and also the Tenth of every Ecclesiastical promotion for ever.

Sect. 42.

In pursuance of this Statute Commissions issued forth to several persons in England, Wales, and Ireland, (of whose number the Bishop of every Diocese where they came was always one) to examine the values , upon which Commissions there were returns made into the Exchequer from all

ruits, all the places aforesaid, except
 year only the County of *Kerry* in *Ire-*
noti-
bene-
arks *worke*, or *danger* of *cōing* in to that
y no *County*, as a learned Gent. saith,
bent *nd* in that *County* there is not
ucti-
ions *payment* at all made *before the*
the *mission* of *Ministers* into *bene-*
com-
ears after was repealed by the
up-
the *Statute* of *2.* and *3.* *Phil.* and *Mary*
pro-
Firſt-fruſts and Tenthſ, except
only for ſome time that Cardi-
nal Pool *was to have the Tenthſ to*
tute *Penſions granted by H. 8.* *at*
eral *the diſſolution of Monaſteries to*
Ire- *ertain Monks & Nuns for their*
Bi-
lives and no longer.

Mr. Fullers
Church-Hi-
Story Book 5.
cent. 16. Sect. 4.
f. 226.

But in the first yeer of Queen *Sect. 43.*
Elizabeth, theſe Firſt-fruſts and
urns *Tenthſ were again reſumed to the*
rom *Crown, and the Statute of the*
all *26. H.*

26. H. 8. ch. 3. revived; and that the Queen was to have the First-fruit to all intents and purposes, and in the same estate, interest, order and degree, quality, sort, and condition as Queen Mary had them before the repeal of the Statute of the 26. of H. 8. ch. 3. excepting only Vicarages not exceeding twenty pounds per annum, and Parsonage or tithes not exceeding ten Marks per annum, which were to pay no First-fruits, and some few other exceptions not to our purpose.

Sect. 44.

By this last Statute there is no New Taxation or Survey to be made, but the Queen was to enjoy First-fruits and Tenthys in the same order, degree, quality, and condition, as her sister Queen Mary did have them before the repeal of the aforesaid Statute of 26. H. 8. where and the degree and condition that again Queen Mary had First-fruits and Tenthys.

and thonths in , was the same that
 Firsley were surveyed and valued
 proposed, and returned into the Exche-
 , orderer in H.8. and none other: &
 addition being the effect of these Sta-
 beforees , I am now come closer to
 of the Doctor , to let him know
 ng on at the Judges of England have
 ng interpreted these Statutes with
 sonage or impartiality , equity, and in-
 prr in fference than he takes upon him
 Firs do, and indeed have adjudged
 her exis very point in controversie,
 : mean contrary to his confident
 sertion.

to b In the 12.year of the late King *Sect. 45.*
 to enarks, there was a case adjudg- *Crooks Reports,*
 in the in the then *Kings Bench*, upon *f.456.* These
 d came Statute of 1. E. 6. cap. 14. received from
Major dissolution of Chauntry's, be- *all the Judges*
al dween Humffreyes and Knight, A passe *of England,*
H.8. wherein is cited the case of Drake through the *Presse into*
thagainst Hill, adjudged upon the *the world, and*
as an order of Parliament 9. June 1647. to the same purpose.
 enth
 Statute

Statute of 26. H. 8. c. 3. and two
Elizabeth c. 4; in the 8th. year
 of the said King Charles in the C^o A bri
 mon Bench, (viz.) That a Church be
 eight pound value, shall be val^t H. 6
 according as it is in the books of valuation
 of Benefices, and not according
 to the true value as it is in
 IMPROVEMENT, for title
 Statutes intend it, as it was val^t case
 ed in the Ancient Books of Fifth
 fruits and Tenth^s, which were
 taxed in the 29. of E. I. (but Mr. S.
 Lord Cook saith the 20. E. I.)
 after when another valuation
 made in pursuance of the Statute
 of 26. H. 8. then it shall be ac
 cording to that valuation, and
 there in the principal case it is de
 sired that six Houses are valued accordin
 as they were at the time that
 were given by the Statute
 Channries to the King, and no Hus
 as they were improved afte
 wards. In this case are also cito
 ing

3. and two Parallel cases touching *Voucher*
 year *tees*, th' one out of *Fitzherberts* Fitzb. Abr.
 the C. Abridgment Tit. *Voucher*. 258. Tit. *Voucher*
 Church the other out of year book of 19. 46.

e value H. 6. fol. 46. (viz.) The *Voucher*
 es of *shall not render in value more than*
 t account that the Land was at the time of the
 is *warranty, ultra reipras*; In *Fitzb.* Fitzb. Abr.
 for *Title dower*, pl. 192. There is a 192.

as value case to this effect adjudged in
 of *Fitzb.* 7. H. 3. *Io. St.* seized of
 Lands in fee intermarries with
 but *Ja. St.* and afterwards sells the
 Lands to *J. N.* and dyes; *J. N.*
 builds upon part of this Land, by
 means whereof it is improved to
 be a better value then it was at the
 time of the death of *J. St.* *Io. St.*
 it demands dower, she shall have
 dower of that part of the Lands
 that remains in the same state &
 value as it was at the time of her
 Husbands death, and not of that
 which *J. N.* improved by build-
 ing. If a man leavy a fine of
 Lands

co. 2. Inst. f.
511.

Charon.

Lands of the value of 2000 l. per
Annum, his *præ-fine* for every
five markes *per Annum*, is 6 s. 8 d.
by strictnesse & severity of Law,
and his *post-fine* which he payes
after the *Congee d'accorder* is 10 s.,
yet who almost knows not but
he that was born in a *bottle*, and
never looked into the world, but
out of a *hole* (as *Charon* speaks in
another case) but that the usual
composition for fines leavied,
doeth not amount to the tenth
part of the fine, according to the
present improved value of Lands,
but inclines to the ancient values
of them, and those that do com-
pound for fines, may not exact
according to the utmost impro-
ved values of Lands at this day.

Set. 46. By the Statute of *Prærogativa*
Co. 2. Inst. 134. Regis 17. E. 2. (which my Lord
Cook saith is but a Declaration of
what the Common Law was be-
fore)

fore) the King was to have the Primer seizin (or First-fruits as Staunf. Prerog.
S. aunford calls it) of the Lands of R. gis t. 12. a. all that held from him *in capite*, (t.e.) he was not only to seize into his hand their Lands, but *Rex habebit primam seisinam*, (i.e.) *cupido omnes exitus*, he was to receive the whole profits thereof for one year; or if apparent default was in the heir, he was to receive it *until livery*, and yet when enquiry was made *de vero valore*, it is well known it was not found to be of the third part of the value of what it was truly upon improvement.

Having (I hope) not unnecef-
sarily detayned the Reader in
the recital of these several Pa-
tallel Cases to that of *Drake* and
Hill, touching the measure of
First-fruits; I shall now not only
proceed to enquire when First-
fruits

fruits began to be exacted by the Pope, but take my flight a little higher, and examine whether any First-fruits were payable in England before the Pope exacted it, and if it was, when; by whom it was paid, and to whom.

Sect. 48. Among the Laws of *Ina* (who began his reign in the year 712, and ended it in 727.) I find this Law *Primitias seminum quisque ex eo, dato, domicilio, in quo, ipse natli die domini commemoratur.* Here First-fruits were paid by every man, and they were to be *Primitiae seminum*, but how they could be paid in kind (as the words import) *ex domicilio*, is hard to decypher, unless the word *domicilium* comprehend something more then the bare *House*. Among the Lawes of *Edgar* (who began his reign in the year 959. & ended it in 975) we have this Law

*Lamb. de Pris.
Ang. 1 g. inter
leges Edgari
lex. 2 f. 62.*

the
ittle
any
Eng-
d is
m it
of a seminum primitia primaria pen-
duntor Ecclesie: &c among the Laws
of Canutus (who raign'd from the
year 1016. unto the year 1035.)

Lamb. de Pris.
Angl. leg. inter
leges Canuti,
lex 9, f. 192.

I find this Law *Seminum primitia*
ante festum dñi i Martini penduntor,
quis dare distulerit eas Episcopo, un-
decies præstato, ac Regi ducentos &
viginti solidos persolvito: And in
the time of H. I. (who raign'd
from the yeer 1100. until 1135.)

Here was this Law made, *Qui*
Cherifscceatum (i. e.) primuum
minum, as Sir H. Spelman in his Hen. Spelmanni,
Counsels doth render the word, f. 402.

mit ultra festum Sandi Martini
dat eum Episcopo, & undecies
solvat, & Regi 50 Solidos, by
these Laws it appears that
first-fruits were paid in kind by
every man to the Bishop, or to the
Cathedral or Mother Church, as
is here termed, and that nei-
ther the Kings of England nor the
Bishop of Rome had any thing to

do with them till after the time (as
of *Henry* the first, who finished his
raigne in 1135.

Sec. 49.

When the
Pope did be-
gin to exact
First-fruits
in England.

Sir R. T. viii.
dication, &c.
c. 4. f. 86.

I now come to enquire whether the Pope did first exact First-fruits in England, and because there is such a diversity of opinions among the Learned Men, I shall set downe what opinions they are of, and then what opinion I find to be the most probably true of all the others among them. Sir *Roger Twifden* (a Gentleman whom I would rather incite to make further inquiry into his former opinion, in a book lately published by him, and called, *A vindication of the Church of England*, & earne then contend with him, in which of us urges a better authority, unto whom I did strongly conjecture truely living on my side) saith that *Theodosius* bounce a *Nien* (who lived in the Court of Rome, Secretary to *Gregory* the ⁷old)

the time (as it seems to him) to Pope
Boniface the 6. sayes, That Boniface
in the 9. Circa decimum annum sui Re-
gnis, viz. 1399. primos fructus
whem anni omnium Ecclesiarum Ca-
-fructus etiam Abbatiarum Vacan-
-tum sua camerae reservavit, ita quod

alii tunc per eum promoveri voluit, Of the same
dowm omnia cogebar solvere primos opinion with
annus Ecclesiae vel monasterii cui Platina, and
to beneficij voluit, &c. with whom Pol. Virg. is
of Platina agrees, Annatarum usum Pag. of Popes
Regnum imposuit Bonifacius IX. fol. 150. a.

nom. sc. sunt tamen qui hoc inventum
make Johanni xxii. ascribunt, the same
or smooth Polidore Virgil affirm but
abili peaks, as though some thought
Vindictum of a higher time, which the
d, & learned Gentl: Sir R. T. denies,
whilst brings Nicholaus Clemanges
unlike who writ a Treatise of Annats)
true and lived at the time when the
doncouncil of Constance sate, in
Couthich Council no higher date
the could be assigned to First-fruits

than the time of John XXII. to his Ayde and cites the Cardinal D'offat, Ranulphus, Cestrensis, Knighton, and Walsingham, as all being his confederates in this assertion, & all giving the same verdict (viz.) that *Annatis* or First-fruits began in the time of Pope John XXII.

Of the same opinion with Sir R.

Hn. Spelman T. is the Learned Sir Hen. Spelm. in his Glossaries, & cites the same Authors all (except Knighton and D'offat) and brings one Author more to justify this opinion (viz.) Trevetus whom he saith was in Johanni (XXII.) *equalis*.

Set. 50.

I shall now modestly offer what I find some grounds for, against the united Testimonies of these learned Authors; The *Tractate de Annatis non solvendis*, which is said to be *Nich. Clm.* four of which Sir R. T. takes one Testimony to justify, That First

fruit

fruits began in *John XXII.* time) is doubted by Sir *Hen. Sp.* whe- *Spelm.* Gloss.
 ther it be his or not, though it go f. 37.
 among *Clemanges* his works, but offers no reason for it; but whether it be legitimate or spurious, is not determined by him, therefore I shall not examine it at this time, but proceed to what I have to say, and enquire when *John XXII.* was Pope, how long, and in what Kings of *Englands* reign it was; and then enquire whether First-fruits were not exacted before his time.

Pope *John XXII.* (or rather *Sext. 51.*
 off the *XXIII.* if the life of *Joan VIII.* (the she Pope) had not in See Pope *Jo-
 nnes* life in Ba-
 the later Editions of *Platina* been les Pageant
 expunged, it being yet to be seen of Popes, f. 55.
 in the his first Edition,) began and in the old
 his *Popedom* in the year 1316. *Platina.*
 which was about the 9th. year
 of *Ed. 2. of England*, (the Papal
 E 4 Seat

Seat being empty for two years after the death of Clement the V. (who died in 1314.) by reason of discord among the Cardinals) and ended it 1335. which was about the 10 year of E. 3. Now that First-fruits had not beginning in this Popes time, but had a higher date, I shall offer several Testimonies.

Set. 52. Mr. Fox in his book of *Mr. Fox Acts* and *Monuments*, vol. I. p. 7. col. 1. l. 13. &c. in the year of our Lord 1228.

Pope *Gregorii* in full Parliament against the the 9. lived at Popes exactions, about which this time, in whose time time, notwithstanding the said the Decretals Institutions, the Pope demanded were publish- First-fruits, and reservations of Be- ed. nefices, to the impoverishing of the Church, which among the old Roman Elders were new known. And in another place he saith, that Pope *Clement* the 5.

in the year of our Lord 1307. Mr. Fox Acts
 (which was in the 34. year of ^{and Monu-}
^{ments, vol. I.}
Edw. I. of England) sent *William* p. 452. c. 2.

Testa, (otherwise called *Mala Testa*) into *England* with *Buls*, in which he reserved the *First-fruits* of the first year of all *Churches* being vacant at any time in *England*, *Scotland*, *Wales*, and *Ireland*, which the King opposed in his Parliament at *Carlile*: In this Parliament was made the Statute de *Asportatis Religiosorum* in the 35. year of *Edw. I.* ^{Stat. 35. E. I.} this Statute was ^{de Asportatis} against *Tallages Payments, Charges,* ^{Religiosorum} and *Impositions* that were laid by Aliens, heads of *Religious houses* in *England*, and carried beyond Seas, and though the words *First-fruits* are not particularly expressed in the *Statute*, yet by what is said before, and what shall be laid next after, there is more than conjecture that they were intended under the general words of *Tallages*,

Tallages, Payments, Charges, and
Impositions, against which the
Statute provides; and my Lord
Co. 2. Inst. 580. Cook in his Comment. on this Sta-
tute cites this record, *In hoc Par-
liamento per majores graves deposita
fuerint querimoniae de oppressionibus
Ecclesiarum & monasteriorum multi-
plicibus, & extortionibus pecunia-
rum per Clericum Domini Papæ ma-
gistrum Willimum TESTA noviter
in Regno inductum: preceptum est
eiusdem Clerico de assensu Comitum
& Baronum, ne de cetero talia exe-
Daniels Histo- quatur. And Daniel in his Histo-
ry f. 172. ry of the lives and reign of the
Kings of England, saith, That in
the same year that the Statute
of Carlile was made, The Pope
demanded First-fruits out of all Ab-
bies, Prieses and Monasteries in Eng-
land, Scotland, Wales and Ireland,
and that though E. I. did deny
them to him, yet something he had, for
at that time the King being in Warre
with*

with Scotland, the Pope granted him
the Tenth of all Churches of England
for two years, and the King (to re-
quite him) yielded that the Pope
should have the First-fruits of those
Churches. And Peter *Cassiodorus* in
an Epistle to the Church of Eng-
land, in the year 1302. (which
was 3. years before this Parlia-
ment at Carlile) taken out of an
old book in St. Albans Church
(as *Bale* saith) inveighing against ^{Bales Pa-}
the Popes oppression of the En-^{geant of}
glish Clergy, saith, That the Pope ^{Popes, f. 127,}
_{128.}
(which at that time was Boniface
the eighth) was not content to have
the tenth part of all the Clergies goods,
but must have the First - fruits of
the benefices of the Ministers whereby
he may got a NEW PATRI-
MONIE, as well for himself as
his kindred; upon all these Te-
stimonies very little varying
from one another, except onely
that the first is some scores of
years

years older then the rest : I must be of a belief with *Polidore Virgil*, (whom yet I should little credit without Coassertors of a better esteem than himself) That *Firſt-fruits* were of an elder time than what Sir R. T. and Sir Hen. Spel. and those authorities they cite affirm them to be; until I receive better satisfaction than yet I have.

O F T E N T H S.

C H. II.

Seſt. I.

Having thus far proceeded in giving the best account I could of *Firſt-fruits*, I shall now go on to speak of *Tenibz*, which I find in Scripture expressed by this word, *Magnascher*, *decima*; from

מְעֻשָּׂר

decima, a.

from *Gnaschar*, decimavit : and by
no other word that I find: Learned
men affirm, There were four
several sorts of *Tenths*, 1. The תְּעַשׂ
Israelites paid a Tenth to the *Le-
vites* or inferior Priests. 2. The *Venatorii Ana-
Levites* separated a Tenth of their לִסְסָיָרְפָּנִים. lib. 3. tit.
tit. 30. f. 621.
Tenth to the *Priests*. 3. There סֵדֶן אֲתָתָה
Tyths. c. 2.
f. 13.
was a Tenth that every one of *the Israelites* separated in the
Corn-Floor, which when they
went to *Jerusalem*, they were to
eat in the *Entry* or *Porch* of the
Temple, and to invite the *Priests*
and *Levites* to partake of it. 4.
There was a Tenth which the
Israelites were to set apart for the
Poor and for the *Levites* within
their own Gates; but that Tenth
which I am to speak of, is only
that which the *Levites* paid out of
their *Tenths* to the *Priests*: The *Le-
vites* though they had no inheri-
tance among the Children of
Israel in the Land, yet they were 18. Numb. 24.

to

Ayenswirth up-
on the Penta-
teuch.

to honour the Lord with an Heave-offering; or First-fruits out of their first Tythe, which (as a worthy Learned man saith) was to be imputed to them as if they had Lands and possessions, and offered Tenth's out of them, these the Levites were to give to Aaron the Priest, and the Tenth they gave the Priest was to be of the best of their Tythes; and from hence I offer this definition or description of the second Tythe or Tenth, viz.

Sect. 2.

Tenth's (or second Tythes) in Scripture, were the tenth part (or First-fruits) of the best of the first Tythes which the Levites separate for the Lord, and which he gave unto the Priests. For proof of this description the Scripture is not sparing in the 18. of Numb. vers. 26. Thus speak unto the Levites and say unto them, when ye take of the children of Israel

Israel the Tythes which I have given you from them for your inheritance. Then ye shall offer up an Heave-offering of it for the Lord, even, at tenth part of the Tyth, and that it was to be given to *Aaron* the Priest is manifest by the 28. verse of the same chapter, (viz.) Thus you also shall offer a Heave-offering unto the Lord of all your Tythes which ye receive of the children of Israel, and ye shall give thereof the Lord's Heave-offering to *Aaron* the Priest. And that they were to be given out of the best of the Tyths, appears by the 29. verse of the same chapter, in these words, Out of all your gifts ye shall offer every Heave-offering of the Lord of all the best thereof, &c. and that they were in the nature of First-fruits, is not hard to make manifest for, i. The word here used to signify Heave offering of the tenth is *Theruma*, which must be understood of the

obla-

oblation of First-fruits as was before urged. 2. The vulgar Latin readers Theruma in Numb. 18. 26. to be Primitiae: part of the verse runs thus, *Cum acceperitis a filiis Israel decimas, PRIMITIAS earum offerte Domino (i.e.) decimam partem decimae, and in the 27. vers. ut reputetur vobis in oblationem primitiorum, &c.* and the septuagint do render Theruma here ἀπάγμα. demptio καὶ ἀποτίσις ὑμῶν ἀπὸ τοῦ ἀπάγματος κυρίῳ ἐπιδεκτόν ἀπὸ τῆς ἀπάγματος (i.e.) ስdemptis ὃς δε εἰς demptione domino decimam de decimi. The Learned Publishers of the Bible in the Learned Languages, do render the word, *Heave-offering* of the tenth of the Tyth, out of the Syriac separatorio, out of the Chaldee also separatorio, out of the Samaritan elevationis, and out of the Arabick oblatio, which are the same in effect by all these authorities, or

at least some of them, it cannot but be admitted me, that the Tenth. (or 2d. Tyths) were the First-fruits that the Levites paid out of their first Tythes, but why the Levites were to pay a certain measure of First-fruits (*viz.*) a Tenth of their Tenth; and the Israelites were left to give what they pleased (so it was the best) or if they were stinted (as the Rabbins say they were by the Jewish Canons, and as the 45. Ezek. 13. seems to tell us) yet it was not above a fortieth part, seems to me hard to be resolved, unless it was because the Levites and Priests had the Lord for their inheritance, and had a more peculiar converse and correspondence with him than the ordinary Israelites, therefore they were to pay a larger Tribute of acknowledgement of Gods goodness than they; however we may say the will of the

F Lord,

Lord, which is the rule of goodness, is authority, and a reason sufficient enough for it.

Sect. 3.

*Mos. s Maymon
of Tythes c. i.*

*Selden of
Tythes, f. 13.*

*Buxtorf. Lex.
t. 558.*

The Jewish Doctors say, That the Tenth (or second Tythes) are the tenth part of the best and fairest of the first Tythes separated by the Levites for the Priests. The Husbandman (saith Mr. Seld. Out of Joseph. Archon) paid no Tythes to the Priests, only the Levites received Tythes from them, and paid the Tenth out of them to the Priests, being tanto illis minoribus, quanto ipsi majores populo; by which example Clergy-men paid Tythes to the Pope, nor might the Levites spend any of their Tythes to their own use till the Tenth for the Priest were first separated out of it: and Buxtorf. saith, Primam decimam dedit Colonus Leviticis, de qua ipsi dabant decimam sacerdotibus.

The

The Canonists tell us, That *Sett. 4.*
 the Tenthys are *illa decima quas Le-* *Venator. And-*
vita (hoc est) inferiorum ministrorum *lyps Ju:is Pen-*
gradus ex decimis dabant sacerdos- *tif. lib. 3. tit. 36.*
bus. These Tenthes before the
 Statute of *H. 8.* were exacted by
 the Bishop of *Rome*: for when he
 assumed to himself the name and
 Tytle of *Pastor pastorum*, he ex-
 acted to himself *Decimas decima-*
rum, as Mr. *Fuller* affirms.

Fuller Church
History B. 4.
Cent. 16. Sett.
4. f. 226.

The English Lawyers say, *Sett. 5.*
 Tenthys Ecclesiastical are the *tenib* *co. 4. Institutes*
 part of the *value of all Ecclesiastical* *c. 14. t. 130.*
livings yearly payable to the King,
 (or to the chief Magistrate) his
Heirs and Successors; except onely
 for the first year, wherein they
 did pay the First-fruits. This de-
 scription must (as well as that
 of First-fruits) bee understood

to be after and with relation to the
aforesaid Statutes of 26. H. 8. and
1. Elizabeth, which first gave them
to the Kings of England, and made
the Popes *exactions, incroach-
ments, and usurpations*, to become
a Royal Revenue, and a standing du-
ty to the Crown.

Set. 6.

These second Tenthes (being
the Tenth of the first Tyth) is a
*certain and set measure and propor-
tion* of what the *Levites* paid un-
to the *Priests*; I shall not therefore
bee necessitated to pursue the
same method and order in every
respect, as I did in the handling
of First-fruits, which had not so
clear and manifest a stint by the
Law of God or man: But that
Tenthes are to bee paid to the
chief Magistrate of England, &c.
according to the Book of valuation of

Bene-

to the
and
hem
made
oach-
come
g du-

Benefices in the time of H. 8. and
not according to the present *im-
proved values* of them at this day,
which the Doctor urges, is clear
from the case urged before our
of Justice Crook, to which we do ^{Crooks Reports} f. 455, 456.
adheare, and to the parallel cases
there touched on.

When these 2^d. Tythes began *Sett. 7.*
first to bee paid in *England*, is
hard to know; we do not find that
they were paid (as First-fruits
were) in the time of the *Saxons*,
although we find them earlier
in the Popes Purse out of *Eng-
land* than First-fruits were; It is
true some think them *twyns* begot
by the Pope at the same time
here in *England*, because of the
affinity they have one to another,
(they being indeed in their *first
appointment* (*both of them*) but *First-
fruits*,

fruits, paid in a different measure by different hands) and because they travelled together hand in hand for divers scores of years throughout several volumnes of the Canon Law, & throughout several Ays of Parliament here in England: But such as think so, may know, that it is ordinary to find First-fruits walk alone in the several Reigns of Ed. 1. Ed. 3. Rich. 2. H. 4. yea of most of the Kings of England from Edward the first downward, till H. 8. time, and Tenthys have walked alone both since and before Edw. 1. time.

Set. 8. Daniel in the life of Edward the first, in the place before recited, story, f. 171. in the life E. I. saith, That the Pope gave Edward When Tenthys the first in the 34. year of his reign began to be paid to the Pope. toward the maintenance of his warre with

with Scotland, the Tenths of all
Churches in England for two years,
which the King accepted, and to re-
quite the Holy Father, gave him in
lieu of it the First-fruits of these
Churches; which evidently shews
that the Tenths were of an elder
date in the Popes possession and
enjoyment, than First-fruits,
which then the Pope received
not till the King gave them him,
by as good a right as the Pope
had to demand them, which was
none at all, however the Pope
and the King were the *wolf* and
the *Lion*, as *Mathew Paris* saith,
that preyed on the people as of-
ten as any necessity of their own
creation put them upon it. But if
we enquire a little higher, wee
shall find, That Pope *Clement*
the 4. in or about the year of our
Lord 1265. (which was to-
wards the later end of the reign

Papa & Rex
Lupus & Le.
Math. Paris.

Brovius post
Baconium.
Tom. 13.

of Hen. 3.) did demand the Tenthis. For thus *Brovius* in his Ecclesiastical History writes, *Decimæ sacerdotiorum Angliae Clericis imperantur & alie in toto Galliarum Regno & Comitatu Andegavensi omnibus Ecclesiis pro Siciliæ Regno recuperando a Clemente 4. imperantur*, and in the year of our Lord 1289 (which was about the 17. year of Edward the first) the same Author saith thus, *Decimatio fructuum Ecclesiasticarum pro rebus Syriae deploratis omnibus Ecclesiis in triennium à Nicholao quarto Pontifice anno Pontificatus sui secundo, imponitur*. We find also, That the Pope did give H. 3. the tenth of the Clergys estates, according to the improved value of Churches, upon a new inquiry to be made (not unlike to what the Doctor desires now) and the Tenth of the estates of the

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the Laitie also throughout the Realm, *ad Regia viatica Peregrinationis*, as *Math. Paris* saith; but this was opposed by the Clergie: *Quia binus actus inducit consuetudinem*, but afterwards he had them, I hope by this that I have now urged it will not bee hard to believe, that Tenthys were exacted in *England* by the Pope before First-fruits, and that they were in the Popes possession and graunt too in the time of *H. 3.*

Mathew Paris
828.822.

Being thus farre arrived, and Sect. 9.
having (I hope) not without just cause drawn the Readers eye *a little aside* from viewing the Doctors assertion, to take a view of mine, which I assert to bee the Truth; I shall conclude with the Story in *Xenophon*

phon of Cyrus the Persian King, when he was a youth in School, and of his Judgement in the case of Right and Conveniency, Πάτε μήγας μικρός ἦτοι χιτών, Εργά παιδί μηδέ μήγας ὅχοις χιτών εἰναις εὐτούς, &c. (That is) A great boy having a little Coat, & a little boy having a great Coat. I (viz. Cyrus) being Judge in this matter, did give Sentence, That it was best for both parties, that each might have a Coat suitable or fit for him; for which Judgement Cyrus was beaten by his Master, and told that in matter of Conveniency and Fitnesse his Judgment was good; but this was to fix and determine a Right, whose the Coats were. Thus farre I shall apply it, the Doctor judges it meet his Highnesse, having so many streams dayly running out

XENOPHON
ΤΟΞ Κύρου
παιδίον, &
f. 13.

out of his Excheq. should have some running in, and therefore hath already adjudged 100000l. forthwith, and 50000l. per Annum, as a perpetual revenue to run thither out of the First-fruits and Tenthys of Ministers livings, over and above what was ever yet paid since the time of Henry the eighth; I am of his mind, That it is convenient, yea necessary his Highnesse should have store of Treasure, to defray the great Charges he is at, in endeavouring to secure our Religion and Liberty against Domestick land forein enemies; but do affirm and hope, that I have made it appear, That by the *Law of the Land* his Highnesse cannot demand it; and if he could, I verily believe he would bee as loath to take it from that number

ber of men as from any other in
the Nation. But I shall not wish
the Doctor from his Highness
the same correction and cha-
tisement that Cyrus had from
his Master.

*Non habet eventus sordida pra-
dicta bonos.*

F I N I S.

THE ERRATAS.

P age 6. line. 1. in the Margent, for תְּרִינָנוֹת read בְּנָרוּם for תְּרֻוָּה p. 6. l. 18. in the Margent, for בְּנָרוּם for תְּרֻוָּה p. 17. l. 1. for 1651. or 1652. r. 1151. or 1152. p. 19. l. 14. for territorū r. Territorium. p. 30. l. 6. for Proventum r. Provenitum. p. 33. l. 3. for טַתְאָוָת r. פְּמָאָה p. 38. l. 1. for Arch-Bishop, r. Arch-Bishop-
rick. p. 41. l. 4. for advanted, r. advanced. l. 6. for Pope, r. Popes. p. 43. l. 8. for paymeni, r. payment. p. 49. l. 7. for cupiendo, r. capiendo. p. 52. l. 19. blot out in. p. 55. l. 21. blot out the. p. 56. l. 22. for new, r. never. p. 57. l. 17. for Religions, r. Religious. p. 60. l. 9. for receive, r. I receive. p. 63. l. 9. for a. r. an.

